

UNITED STATES DISTRICT COURT  
 SOUTHERN DISTRICT OF OHIO  
 WESTERN DIVISION

M&S ADVISORY GROUP, INC.,	:	Case No. C-1-02-522
	:	
Plaintiff,	:	Judge Spiegel
	:	
vs.	:	Magistrate Judge Hogan
	:	
EYEMART EXPRESS, LTD.,	:	<b>DEFENDANT EYEMART</b>
	:	<b>EXPRESS LTD.'S</b>
Defendant.	:	<b>AMENDED RESPONSES</b>
	:	<b>TO PLAINTIFF'S THIRD</b>
	:	<b>SET OF INTERROGATORIES</b>
	:	<b>TO DEFENDANT</b>

Defendant EyeMart Express, Ltd. (hereinafter "Defendant") submits the following amended responses to Interrogatory No. 1 of Plaintiff's Third Set of Interrogatories to Defendant. Defendant asserts and incorporates the general objections made in its prior responses.

**AMENDED DISCOVERY RESPONSES**

1. Set forth the calculations for all damages that Defendant contends it has suffered as a result of Plaintiff's alleged breaches or representations (Defendant agreed to provide such calculations during the deposition of Jonathan Herskovitz).

**RESPONSE:** Defendant asserts and incorporates the objections made in its prior responses. Without waiving the objections, Defendant provides the following calculation of damages.

Payment to Sherman - \$41,666.64

Construction/Upgrades/Additions - \$151,022.22

Employee Time on Real Estate - \$38,185.00

Compensation to Additional Personnel - \$252,185.14

Reflects compensation to the following persons for the year 2002:

Christopher Blann - \$93,077.06

Terri Knoles - \$3,338.48

Kristie Miller - \$48,519.45

John Odle - \$56,250.00

Robert Van Dyke - \$51,000.15

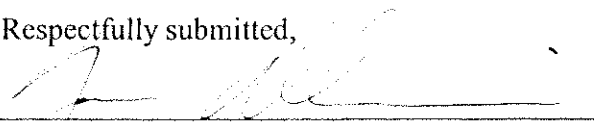
Travel and Related Expenses - \$21,224.90

Reduction reflects subtraction of some amounts claimed as damages for flights to and returning from the ICSC in Las Vegas as set forth on documents bates-stamped EyeMart 000806 and EyeMart 000807.

Total - \$504,283.90

AS TO THE OBJECTIONS.

Respectfully submitted,

  
Michael W. Hawkins (0012707)

Jon B. Allison (0073955)

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255 E. Fifth Street

Cincinnati, Ohio 45202

(513) 977-8200

Attorneys for Defendant

EyeMart Express, Ltd.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served via hand delivery this 25th day of February, 2004 to:

Robert A. Pitcairn, Jr., Esq.

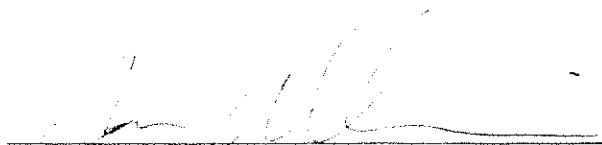
Wijdan Jreisat, Esq.

Katz, Teller, Brant & Hild

255 East Fifth Street

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Cincinnati, Ohio 45202-4787



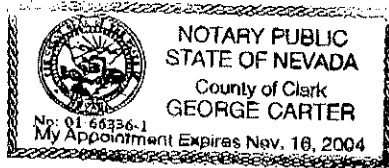
VERIFICATION

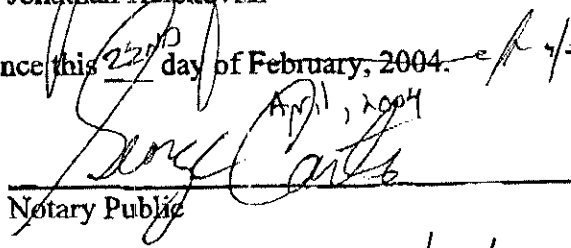
COUNTY OF ~~TARRANT~~ CLARK )  
 ) SS:  
STATE OF ~~TEXAS~~ NEVADA )

I, Jonathan Herskovitz, being first duly cautioned and sworn, state the foregoing responses are true to the best of my information and belief.

  
Jonathan Herskovitz

Sworn to and subscribed in my presence this 22<sup>nd</sup> day of February, 2004. 7/22/04



  
Notary Public

My Commission Expires: 11/16/04